

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN MOORER, et al.,

Plaintiffs,

v.

RAYMOND BOOKER, et. al.,

Defendants.

Case No. 09-cv-13725

HONORABLE STEPHEN J. MURPHY, III

**ORDER ADOPTING REPORT
AND RECOMMENDATION** (docket no. 31),
**OVERRULING OBJECTIONS, AND GRANTING DEFENDANTS'
MOTIONS TO DISMISS AND FOR SUMMARY JUDGMENT** (docket no. 26)

In this civil rights case, *pro se* plaintiff John Moorer,¹ incarcerated at Kinross Correctional Facility, alleges that the numerous prison guards and officials retaliated against him in various ways for exercising his constitutional right to file grievances against them. Defendants filed motions to dismiss and for summary judgment. The matter was referred to Magistrate Judge Donald Scheer for all pretrial proceedings.

The matter returns to the Court on the report and recommendation of Judge Scheer, who recommends that the Court grant Defendants' motions and dismiss the complaint. Moorer has filed objections to the report and recommendation, wherein he agrees to dismissal of his claims against Booker, Harrington, White, Chapman, Novack, O'Brein, Myles, and Rudd. Accordingly, these claims are dismissed with prejudice.

¹ Although the complaint also names as co-plaintiffs various of Moorer's relatives, Moorer lacks standing to seek redress for any constitutional violations perpetrated against them. Plus, all of the allegations of wrongdoing in the complaint refer to Moorer, not his relatives. Moreover, co-plaintiffs failed to both respond to the Defendants' motions and to file objections to the report, so even if they had claims in the complaint, they have failed to pursue them.

A district court's standard of review for a report and recommendation depends upon whether a party files objections. The Court need not undertake any review at all with respect to portions of a report no party objects to. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). On the other hand, a district court "must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3); see also 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Overly broad objections, however, do not satisfy the objection requirement. See *Spencer v. Bouchard*, 449 F.3d 721, 725 (6th Cir. 2006). "The objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious." *Id.* Objections that merely dispute the correctness of the magistrate judge's recommended outcome, but fail to specify the findings believed to be erroneous, are too general to invoke the statutorily mandated de novo review. *Id.*

Booker has filed objections to the report, so the Court reviews de novo Judge Scheer's disposition of Defendants' motions. After review, the Court concludes that Judge Scheer's analysis in the report is correct, and Moorer's objections do not persuade the Court otherwise. Contrary to Moorer's assertions in the objections, Judge Scheer did not neglect to address Moorer's claims of retaliation against defendants Allen, Anderson, Graham, and Pope. The analysis of the claims against Allen and Anderson are set out in pages four and five of the report, and the analysis of the claims against Graham and Pope are set out in pages ten and eleven. The remainder of the objections simply restate arguments Judge Scheer found unpersuasive, and the Court similarly finds them

unavailing. The Court will adopt the analysis in the report as the Court's own. Defendants' motions to dismiss and for summary judgment will be granted.

WHEREFORE, it is hereby **ORDERED** that the report and recommendation (docket no. 31) is **ACCEPTED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's objections to the report and recommendation are **OVERRULED**.

IT IS FURTHER ORDERED that Defendants' motion to dismiss and motion for summary judgment (docket no. 26) are **GRANTED**.

IT IS FURTHER ORDERED that the claims against Defendants are **DISMISSED** with prejudice.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: December 8, 2010

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 8, 2010, by electronic and/or ordinary mail.

Alissa Greer
Case Manager